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PATENT
Attorney Docket: P05527US0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: David W. Livingston
SERIAL NO: 09/532,687
FILED: March 22, 2000
TITLE: MOSS CONTROL COMPOSITION
ART UNIT: 1616

**DECLARATION OF RUTH A. HARPSTER,
THE PENNSYLVANIA STATE UNIVERSITY,
INTELLECTUAL PROPERTY OFFICE**

ATTN: OFFICE OF PETITIONS
CHARLEMA R. GRANT, ESQ.
Commissioner for Patents and Trademarks
Box DAC
Washington, D.C. 20231

Dear Madam:

I, Ruth A. Harpster, hereby declare the following:

1. I am employed as the Intellectual Property Assistant at The Pennsylvania State University Intellectual Property Office located in University Park, PA.
2. As part of my job duties, I oversee the D.E.A.L.S. DbTM database which shows critical dates for pending applications and issued patents and trademarks.
3. I have been employed in this position for approximately three years, since May of 1999.

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4. The Pennsylvania State University Intellectual Property Office uses the Report Writer software program to run a report that will "tickle" or "diary" upcoming items that need to be attended to for patenting purposes such as Office Actions, IDS's, Assignments, etc. The software pulls the information from the D.E.A.L.S. Db_{TM} database.

5. Once these items have been completed, I manually enter the date of completion to update the D.E.A.L.S. Db_{TM} database. Critical dates for all patents and trademarks including the above-identified application, were placed on this system.

6. Enclosed is a copy of the D.E.A.L.S. Db_{TM} sheet for this application. It can be seen that there was no receipt of a Notice to File Missing Parts. Furthermore, a Status of Inquiry was filed on March 22, 2001, by McQuaide Blasko, Inc., which serves as our outside general counsel. No response from the USPTO was received.

7. The Pennsylvania State University Intellectual Property Office, our outside general counsel, McQuaide Blasko, Inc., and I have exercised reasonable care to ensure this application was not abandoned.

8. I did conduct a complete search of the file jacket and docket records which demonstrated that the Notice to File Missing Parts was in fact not received.

9. The Pennsylvania State University Intellectual Property Office did not intend to abandon this application and believe we are in compliance with all Office communications.

10. The Pennsylvania State University Intellectual Property Office and I do attest that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(a) was unavoidable and under § 1.137(b) was unintentional.

11. The undersigned further declares that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application of any patent issuing thereon.

June 6, 2002

Date

Ruth A. Harpster

Ruth A. Harpster
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